



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

*Promoting the wise use of land
Helping build great communities*

MEETING DATE June 17, 2016 LOCAL EFFECTIVE DATE July 1, 2016 APPROX FINAL EFFECTIVE DATE July 22, 2016	CONTACT/PHONE Brandi Cummings, Project Manager 805-781-1006 bcummings@co.slo.ca.us	APPLICANT Frederick G. Novy	FILE NO. DRC2015-00092
SUBJECT A request by FREDERICK G. NOVY for a Minor Use Permit/Coastal Development Permit (DRC2015-00092) to allow the construction of a 3,048 square-foot single-family residence with a 484 square-foot attached garage and a 351 square-foot attached workshop. The project will result in the disturbance of approximately 8,000 square-feet of a 17,097 square-foot parcel. The proposed project is within the Residential Single Family land use category and is located at 1325 Pasadena Drive, approximately 1.1 miles southwest of the South Bay Boulevard and Santa Ysabel Avenue intersection, in the community of Los Osos. The site is in the Estero planning area.			
RECOMMENDED ACTION Approve Minor Use Permit DRC2015-00092 based on the findings listed in Exhibit A and the conditions listed in Exhibit B.			
ENVIRONMENTAL DETERMINATION A Class 3 categorical exemption was issued on May 1, 2016.			
LAND USE CATEGORY Residential Single-Family	COMBINING DESIGNATION Flood Hazard, Archaeological Study Area, Local Coastal Program	ASSESSOR PARCEL NUMBER 038-732-016 038-732-017	SUPERVISOR DISTRICT(S) 2
PLANNING AREA STANDARDS: On-Site Wastewater Disposal, Drainage, Bayfront Development, Local Coastal Program, Sensitive Resource Area, Residential Single Family <i>Does the project meet applicable Planning Area Standards: Yes - see discussion</i>			
LAND USE ORDINANCE STANDARDS: Local Coastal Program, Coastal Appealable Zone, Flood Hazard, Environmentally Sensitive Habitat (ESHA), Archaeological Study Area, Sensitive Resource Area, Wetland Setback Adjustment <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
FINAL ACTION This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14 calendar day local appeal period after the administrative hearing. The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.			

ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT:
COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242

EXISTING USES: Vacant lot	
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Residential Single Family/residences <i>East:</i> Residential Single Family/residences <i>South:</i> Morro Bay <i>West:</i> Morro Bay	
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Los Osos Community Advisory Council, Public Works, Building Division, Cal Fire, Los Osos Community Services District, US Fish and Wildlife, CA Fish and Wildlife, Morro Bay Estuary, Morro Coast Audubon Society, California Coastal Commission	
TOPOGRAPHY: Nearly level	VEGETATION: Monterey Cypress, Coast Live Oak, grass, ice plant
PROPOSED SERVICES: Water supply: Los Osos Community Services District Sewage Disposal: Los Osos Sewer Fire Protection: Cal Fire	ACCEPTANCE DATE: April 19, 2016

DISCUSSION

The applicant is proposing to construct a 3,048 square-foot residence with a 484 square-foot attached garage and a 351 square-foot attached workshop on a vacant bayfront lot in the El Morro area. The project has obtained a conditional intent-to-serve letter from the Los Osos Community Services District for water service and the applicant has obtained at least 900 retrofit credits pursuant to Title 19, a sufficient amount to construct a single-family residence. The proposed residence is replacing a condemned dwelling located at 2150 Pine Avenue, as well as a septic system credit from the condemned residence.

LOS OSOS URBAN AREA STANDARDS:

On-Site Wastewater Disposal

New development using on-site wastewater disposal systems shall protect coastal water quality and meet the requirements of the Regional Water Quality Control Board.

Staff comments: The proposed project complies with this standard because the site is utilizing a septic system credit from a condemned residence at 2150 Pine Avenue. The Central Coast Regional Water Quality Control Board has issued a letter of concurrence regarding the transfer or credit from 2150 Pine Avenue to other locations within Los Osos. The project has a 4" sewer lateral available at the front of the property, and will utilize the community sewer rather than septic. The project is required and conditioned to pay a sewer assessment fee.

Drainage

Los Osos Lowland Areas-Drainage Plan Requirement. All land use permit applications for new structures or additions to the ground floor of existing structures shall require drainage plan approval pursuant to Coastal Zone Land Use Ordinance Sections 23.05.040 et seq. unless the County Engineer determines that the individual project site is not subject to or will not create drainage problems.

The project is conditioned to provide a drainage plan to the Department of Public Works at the time of construction permit application.

Bayfront Development

Height. Proposed structures are limited to 14 feet.

Staff comments: the proposed project is 14 feet in height and meets this standard.

Fences. Fences shall not be constructed that would restrict public views of the bay from public roads or preclude lateral public access.

Staff comments: No fences are proposed at this time, and any future fences will be evaluated at time of construction permit application.

Vegetation Protection. On-site vegetation shall be preserved whenever possible. Grading shall be minimized and limited to the building pad and driveway, road and other required improvements.

Vegetation onsite consists of Monterey Cypress, Coast Live Oak, and ice plant, along with grasses. None of the trees onsite are proposed for removal.

Local Coastal Program (LCP)

Tract 40, Public Access – Setback. New bayfront development in Tract 40 shall be required to record a minimum 30-foot lateral easement extending from the inland extent of wetland vegetation, primarily for habitat protection and secondarily for public access.

Staff comments: the proposed project is conditioned to comply with this standard.

Sensitive Resource Area (SRA)

Morro Bay SRA - Wetland Setbacks. The following setbacks shall be required to provide appropriate separation between development and the wetland vegetation and habitat. Setbacks established here supersede the 100 foot setback requirement by the Coastal Zone Land Use Ordinance. However, in no case shall a setback be adjusted pursuant to Section 23.07.172 of the CZLUO to less than the following standards. Setbacks are measured between the upland extent of the wetland vegetation and development. The minimum setbacks are as follows:

- A. For lots within Tract 40: 75 feet except where adjusted down to no closer than 50 feet from the wetland pursuant to Section 23.07.172d(2) of the CZLUO.

Staff comments: The applicant submitted a Delineation of Environmentally Sensitive Habitat Boundaries and Setback Evaluation (Ecological Assets Management, LLC; September 15, 2015). The report identified the boundary of the wetland on the site. The proposed project is conditioned to increase their front setback to the maximum of 15 feet to reduce the size of a wetland setback adjustment. With this front setback adjustment, the requested wetland setback adjustment will be 62 feet from the wetland boundary to the deck stairs, and 64 feet from the wetland boundary to the residence.

This project, as conditioned, will comply with this standard because the required findings can be made to reduce the required setback from 75 to 62 feet. In particular, the reduction is the minimum that would enable the three-bedroom single-family residence to be established on the site after all practical design modifications, including relocating the residence the maximum allowed to the front setback. Additionally, the project is located across two 50-foot wide vacant lots, and is reducing development potential and potentially larger wetland setback adjustments by constructing one residence that is shorter and wider rather than two residences that would need to be long and narrow.

Residential Single-Family

El Moro Area.

Lot Coverage. Maximum lot coverage permitted on a single 25 foot lot is 60%; lots of 6,000 square feet or more are permitted 40% coverage, excluding patios, driveway, walks, etc.

Tract 40 - Bayfront. Front setback adjustment to a maximum of 15 feet (10 feet from the front property line) may be permitted where it can be demonstrated that it would minimize site alteration and minimize coverage of the site beyond the bluff face.

Staff comments: The project parcel is 17,097 square-feet, which makes the maximum permitted coverage 6,838 square-feet (40% of 17,097 square-feet). The total area of all structures is 3,883 square-feet and the total area of the driveways and other flatwork is 850 square-feet, making the total proposed lot coverage 4,733 square-feet, which meets this standard.

The applicant is also requesting a front setback adjustment to 15 feet from the front property line to minimize construction near the wetland buffer zone. Staff is conditioning this project to move the project and additional 5 feet towards the front setback (the maximum of 15 feet), in order to minimize the required wetland setback adjustment. As conditioned, this project complies with this standard and will have a 10 foot front setback.

LAND USE ORDINANCE STANDARDS

Section 23.07.120: Local Coastal Program

The project site is located within the California Coastal Zone as established by the California Coastal Act of 1976, and is subject to the provisions of the Local Coastal Program.

Section 23.01.043c.(3)(i): Appeals to the Coastal Commission (Coastal Appealable Zone)

The project is appealable to the Coastal Commission because the subject parcel is located between the sea and the first public road.

Section 23.07.060: Flood Hazard

These standards are intended to minimize the effects of development on drainage ways and watercourses, and to evaluate potential hazards to new development. Drainage plan approval is required where any portion of the site is located within a Flood Hazard combining designation.

Staff comments: The proposed project is conditioned to provide a drainage plan and a flood hazard plan at time of construction permit application.

Section 23.07.104: Archaeological Study Area

This Section requires development applications within the Archaeologically Sensitive combining designation area to include a preliminary archaeological site survey. The survey shall be conducted by a qualified archaeologist knowledgeable in local Native American culture and approved by the Environmental Coordinator. If the preliminary site survey determines that proposed development may have significant effects on existing, known or suspected archaeological resources, a plan for mitigation shall be prepared by a qualified archaeologist.

Staff comments: The applicant submitted a Cultural Resources Survey (Central Coast Archaeological Research Consultants, July 2015). A preliminary site survey identified no cultural resources and the report did not recommend further archaeological work. The project is conditioned to cease construction in the event that archaeological resources are found.

Section 23.07.170: Environmentally Sensitive Habitats:

All development and land divisions within or adjacent to an Environmentally Sensitive Habitat area (ESHA) shall be designed and located in a manner which avoids any significant disruption or degradation of habitat values. This standard requires that any project which has the potential to cause significant adverse impacts to an ESHA be redesigned or relocated so as to avoid the impact, or reduce the impact to a less than significant level where complete avoidance is not possible.

1. New development within or adjacent to the habitat shall not significantly disrupt the resource.
2. New development within the habitat shall be limited to those uses that are dependent upon the resource.
3. Where feasible, damaged habitats shall be restored as a condition of development approval.
4. Development shall be consistent with the biological continuance of the habitat.
5. Grading adjacent to Environmentally Sensitive Habitats shall conform to the provisions of Section 23.05.034.c (Grading Standards.)

Staff comments: The applicant submitted a Delineation of Environmentally Sensitive Habitat Boundaries and Setback Evaluation (Ecological Assets Management, LLC; September 15, 2015). The report identified the boundary of the wetland on the site. The proposed project is conditioned to increase their front setback to the maximum of 15 feet to reduce the size of a wetland setback adjustment. With this front setback adjustment, the requested wetland setback adjustment will be 62 feet from the wetland ESHA boundary to the deck stairs, and 64 feet from the wetland ESHA boundary to the residence.

This project, as conditioned, will comply with this standard because the required findings can be made to reduce the required setback from 75 to 62 feet. Without the wetland setback adjustment of 62 feet, it would be infeasible to construct a modestly-sized, aesthetically appealing, three-bedroom residence with a sufficient garage and driveway. The reduction is the minimum that would enable the three-bedroom single-family residence to be established on the site after all practical design modifications, including relocating the residence to the maximum allowed to the front setback, have been implemented and still maintain an aesthetically pleasing, practical design.

As conditioned, the project complies with this standard as development will not be taking place within the ESHA and will be setback a minimum of 62 feet from the wetland ESHA boundary.

Section 23.07.172.d.2: Wetland Setback Adjustment

The minimum wetland setback may be adjusted through Minor Use Permit approval, provided the following findings can be made: (i) The site would be physically unusable for the principal permitted use unless the setback is reduced; (ii) The reduction is the minimum that would enable a principal permitted use to be established on the site after all practical design modifications have been considered; and (3) That the adjustment would not allow the proposed development to locate closer to the wetland than allowed by using the stringline setback method pursuant to Section 23.04.118a of this title.

Staff comments: The applicant submitted a Delineation of Environmentally Sensitive Habitat Boundaries and Setback Evaluation (Ecological Assets Management, LLC; September 15, 2015). The report identified the boundary of the wetland on the site. The proposed project is conditioned to increase their front setback to the maximum of 15 feet to reduce the size of a wetland setback adjustment. With this front setback adjustment, the requested wetland setback

adjustment will be 62 feet from the wetland boundary to the deck stairs, and 64 feet from the wetland boundary to the residence.

This project, as conditioned, will comply with this standard because the required findings can be made to reduce the required setback from 75 to 62 feet. Without the wetland setback adjustment of 62 feet, it would be infeasible to construct a modestly-sized, aesthetically appealing, three-bedroom residence with sufficient garage and driveway. The reduction is the minimum that would enable the three-bedroom single-family residence to be established on the site after all practical design modifications, including relocating the residence to the maximum allowed to the front setback, have been implemented and still maintain an aesthetically pleasing, practical design.

Section 23.04.118a of this title was revised January 2009 and removed reference to the stringline method. This finding was inadvertently not revised to reflect that revision. However, the proposed residence will be located considerably further back from the adjacent two residences using the stringline setback method.

Additionally, the project is located across two 50-foot wide vacant lots, and is reducing development potential and potentially larger wetland setback adjustments by constructing one residence that is shorter and wider rather than two residences that would need to be long and narrow.

COASTAL PLAN POLICIES:

Shoreline Access: ☒ Policy No(s): 1 and 2
Recreation and Visitor Serving: N/A
Energy and Industrial Development: N/A
Commercial Fishing, Recreational Boating and Port Facilities: N/A
Environmentally Sensitive Habitats: ☒ Policy No(s): 1, 2, and 17
Agriculture: N/A
Public Works: ☒ Policy No(s): 1
Coastal Watersheds: N/A
Visual and Scenic Resources: N/A
Hazards: N/A
Archeology: ☒ Policy No(s): 1, 4, and 6
Air Quality: N/A

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COASTAL PLAN POLICY DISCUSSION:

Shoreline Access

Policy No. 1: Public prescriptive rights may exist in certain areas of the county. Development shall not interfere with the public's right of access to the sea where acquired through historic use or legislative authorization. These rights shall be protected through public acquisition measures or through permit conditions which incorporate access measures into new development.

Policy No. 2: Maximum public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development. Exceptions may occur where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources; (2) adequate access exists nearby, or; (3) agriculture would be adversely affected.

Such access can be lateral and/or vertical. Lateral access is defined as those accessways that provide for public access and use along the shoreline. Vertical access is defined as those accessways which extend to the shore, or perpendicular to the shore, in order to provide access from the first public road to the shoreline.

Staff comments: Adequate public access exists within 1,000 feet of both the north and south. Additionally, the applicant is required to provide an offer to dedicate a minimum 30-foot lateral easement extending from the inland extent of wetland vegetation.

Environmentally Sensitive Habitats

Policy No. 1: New development within or adjacent to locations of environmentally sensitive habitats (within 100 feet unless sites further removed would significantly disrupt the habitat) shall not significantly disrupt the resource. Within an existing resource, only those uses dependent on such resources shall be allowed within the area.

Policy No. 2: As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.

Policy No. 17: In new development, a buffer strip shall be required and maintained in natural condition along the periphery of all wetlands. This shall be a minimum of 100 feet in width measured from the upland extent of the wetland unless a more detailed requirement for a greater or lesser amount is included in the LUE or the LUO would allow for adjustment to recognize the constraints which the minimum buffer would impose upon existing subdivided lots. If a project involves substantial improvements or increased human impacts, necessitating a wide buffer area, it shall be limited to utility lines, pipelines, drainage and flood control facilities, bridges and road approaches to bridges, and roads when it can be demonstrated that: a) alternative routes are infeasible or more environmentally damaging, and b) the adverse environmental effects are mitigated to the maximum extent feasible. Access paths and/or fences necessary to protect habitats may also be permitted.

Staff comments: The applicant submitted a Delineation of Environmentally Sensitive Habitat Boundaries and Setback Evaluation (Ecological Assets Management, LLC; September 15, 2015). The report identified the boundary of the wetland on the site. The proposed project is conditioned to increase their front setback to the maximum of 15 feet to reduce the size of a wetland setback adjustment. With this front setback adjustment, the requested wetland setback adjustment will be 62 feet from the wetland boundary to the deck stairs, and 64 feet from the wetland boundary to the residence.

The report concluded that “based on the mapped location of ESHA within and adjacent to the subject parcel, and the proposed building envelope, the residential development would not remove or impact EHSA, or cause a significant disruption of ESHA habitat values.” (Ecological Assets Management, LLC; September 15, 2015).

A buffer strip of 100 feet in width measure from the upland extent of the wetland would be too constraining on the existing lot. Without the wetland boundary setback adjustment of 62 feet, it would be infeasible to construct a modestly-sized, aesthetically appealing, three-bedroom residence with sufficient garage and driveway. The reduction is the minimum that would enable the three-bedroom single-family residence to be established on the site after all practical design

modifications, including relocating the residence to the maximum allowed to the front setback, have been implemented and still maintain an aesthetically pleasing, practical design.

Additionally, the applicant is required to provide an offer to dedicate a minimum 30-foot lateral easement extending from the inland extent of wetland vegetation.

Public Works

Policy No. 1: New development (including divisions of land) shall demonstrate that adequate public or private service capacities are available to serve the proposed development. Priority shall be given to infilling within existing subdivided areas. Prior to permitting all new development, a finding shall be made that there are sufficient services to serve the proposed development given the already outstanding commitment to existing lots within the urban service line for which services will be needed consistent with the Resource Management System where applicable.

Staff comments: The Los Osos Groundwater Basin is at a level of severity III. No new water use is authorized in the Los Osos Groundwater Basin at this time. The applicant has obtained at least 900 retrofit credits (the previous required retrofit requirement) pursuant to Title 19, a sufficient amount to construct a single-family residence, and consequently the Los Osos Community Services District has issued a conditional intent-to-serve letter for water service. The proposed project complies with this standard because the site is utilizing a septic system credit from a demolished residence at 2150 Pine Avenue. The Central Coast Regional Water Quality Control Board has issued a letter of concurrence regarding the transfer of credit from 2150 Pine Avenue to other locations within Los Osos. The project has a 4" sewer lateral available at the front of the property, and will utilize the community sewer rather than septic. The project is required and conditioned to pay a sewer assessment fee

Archaeology

Policy No. 1: The County shall provide for the protection of both known and potential archaeological resources. All available measures, including purchase, tax relief, purchase of development rights, etc., shall be explored at the time of a development proposal to avoid development on important archaeological sites. Where these measures are not feasible and development will adversely affect identified archaeological or paleontological resources, adequate mitigation shall be required.

Policy No. 4: Development shall require a preliminary site survey by a qualified archaeologist knowledgeable in Chumash culture prior to a determination of the potential environmental impacts of the project.

Policy No. 6: Where substantial archaeological resources are discovered during construction of new development, or through non-permit related activities (such as repair and maintenance of public works projects) all activities shall cease until a qualified archaeologist knowledgeable in the Chumash culture can determine the significance of the resource and submit alternative mitigation measures.

Staff comments: The applicant submitted a Cultural Resources Survey (Central Coast Archaeological Research Consultants, July 2015). A preliminary site survey identified no cultural resources and the report did not recommend further archaeological work. The project is conditioned to cease construction in the event that archaeological resources are found.

LOS OSOS COMMUNITY ADVISORY COUNCIL COMMENTS:

This project was reviewed by the Los Osos Community Advisory Council on March 24, 2016. LOCAC had no concerns with the project.

AGENCY REVIEW:

Public Works – Per attached referral response (Tomlinson, March 7, 2016), applicant shall provide drainage and flood hazard plans at time of construction permit application. Payment of Los Osos Road fees will be required. A storm water control plan application and coversheet will also be required at time of construction permit application.

Cal Fire – Per attached referral response (Gomes, April 7, 2016), a fire safety plan is attached. Fire sprinklers required.

Los Osos Community Services District – No response. Applicant provided a water will-serve letter.

U.S. Department of Fish and Wildlife – Per attached referral response (Vanderwier, March 3, 2016), concurrence with negative results for morro shoulderband snail (includes sunset date), recommends a survey for California seablite, will there be an open space easement?

Staff comments: The Botanical Resources Survey Report (Ecological Assets Management, LLC; September 15, 2015) surveyed for California seablite. No seablite was found on the project property, through a small patch was found to the south of the site, in a tidally influenced area. The applicant is required to provide an offer to dedicate a minimum 30-foot lateral easement extending from the inland extent of wetland vegetation.

CA Fish and Wildlife – No Response.

Morro Bay Estuary – No Response.

Morro Coast Audubon Society – No Response.

California Coastal Commission – Per attached email (Robinson, March 18, 2016), in the prohibition zone. Issues with wastewater and water (LOS III).

Staff comments: The project has obtained a conditional intent-to-serve letter from the Los Osos Community Services District for water service and the applicant has obtained at least 900 retrofit credits pursuant to Title 19, a sufficient amount to construct a single-family residence. The site is utilizing a septic system credit from a demolished residence at 2150 Pine Avenue. The Central Coast Regional Water Quality Control Board has issued a letter of concurrence regarding the transfer or credit from 2150 Pine Avenue to other locations within Los Osos. The project has a 4" sewer lateral available at the front of the property, and will utilize the community sewer rather than septic. The project is required and conditioned to pay a sewer assessment fee

LEGAL LOT STATUS:

The two existing lots are Lots 3 and 4 of Block 4 of Tract 40, according to Book of Maps 5, Page 59, and were legally created by a recorded map at a time when that was a legal method of creating lots.

Staff report prepared by Brandi Cummings and reviewed by Kerry Brown.